

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for dates of service 1-31-02 and 2-26-02.
- b. The request was received on 6-5-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. HCFAs
 - c. EOBs
 - d. Example EOBs
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:

No response noted in the dispute packet.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 6-26-02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 7-02-02. No three (3) day or fourteen (14) day response was noted in the dispute packet from the Respondent. The "No Response Submitted" sheet is reflected as Exhibit II in the Commission's case file.
4. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 5-7-02:

"This claim is being resubmitted for reconsideration due to the payments on the claims being paid inconsistently. According to our payment records for the above listed date of service we billed in the amount of \$5040.00 we were paid only \$4284.00 leaving a balance of \$756.00 and were not paid at the Full Billed [sic] amount. This claim is being resubmitted because we billed for the 'PURCHASE' of an External Bone Growth

Stimulator and Suspenders to support the stimulator. These claim items should not have been reduced. We fell [sic] that you have processed this claim in error. The D.M.E. Fee Guideline clearly shows that the allowable for purchase is the reasonable we billed for on the HCFA-1500.... We the provider are billing this equipment at a Fair and Reasonable amount there for [sic] the claim should not be reduced.”

2. Respondent: No position statement noted in the dispute packet.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 1-31-02 and 2-26-02.
2. The carrier denied the billed services as reflected on the EOBs as, “A – Pre-Authorization Not Obtained; M – No MAR/Reduced to Fair and Reasonable.”
3. Pursuant to the table of disputed services the Provider billed \$7971.75, the Carrier reimbursed \$6,780.00 leaving the amount in dispute as \$1,191.75.
4. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB	MARS	REFERENCE	RATIONALE:
1-31-02 2-26-02	E1399 E1399 E1399 E1399	\$ 75.00 \$155.00 \$112.00 \$ 40.00	\$ 64.00 \$132.00 \$ 96.00 \$ 36.00	A,M A,M F M	DOP	Rule 133.307 (g) (3) (D), (E); Section 413.011 (d); HCPCS descriptor	<p>The carrier has denied the disputed equipment as, “A – Pre-Authorization Not Obtained; M-No MAR/Reduced to Fair and Reasonable; F – Reduced to Fee Guideline”.</p> <p>All charges will be reviewed as fair and reasonable except for the \$112.00 charge as it was denied as “F”. There is no MAR for HCPCS code E1399. Additional reimbursement is recommended in the amount of \$16.00.</p> <p>For all other charges on this date, Section 413.011 states, “Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf.”</p> <p>The provider failed to support its position that the fees charged were fair and reasonable. The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. The reimbursement data evidence submitted by the provider proved to be insufficient to meet the criteria of Rule 133.307 (g) (3) (D) which states, “if the dispute involves health care for which the commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with § 133.1 of this title...” The provider submitted EOBs from other carriers. None of the EOBs submitted identified the disputed HCPCS Code. Each example EOB for the HCPCS Code E1399 recommended reimbursement amounts by other carriers. The provider did not submit definitive information to identify that the charges reflected on the example EOBs are the same as the durable medical equipment billed for the dates of service in dispute. CPT Code E1399 is defined as “Durable medical equipment, miscellaneous”. As the requestor, the health care provider has the burden to prove that the fees paid were not fair and reasonable. Without documentation to support what the miscellaneous HCPCS Code E1399 represents on the EOB, the provider failed to meet the criteria of Rule 133.307 (g) (3) (D) by submitting insufficient documentation to establish that the payments made by the carrier were not fair and reasonable.</p> <p>Therefore, additional reimbursement is recommended in the amount of \$16.00.</p>
1-31-02 2-26-02	L0430 NU L1060 NU E0143 NU E0245 NU E0215 NU E0748 NU	\$1,800.00 \$ 75.00 \$ 121.00 \$ 110.00 \$ 80.75 \$5,000.00	\$1,530.00 \$ 64.00 \$ 104.00 \$ 94.00 \$ 69.00 \$4,250.00	A, M A, M M M M M	DOP	MFG GI (VIII) (A); HCPCS descriptor	<p>The Carrier initially denied the disputed services as not preauthorized for date of service 1-31-02. However on readit the Carrier denied as “M”.</p> <p>The “NU” modifier is not recognized in the Commission’s ’96 MFG. For this reason, MRD is unable to determine proper reimbursement for the DME in dispute.</p> <p>Therefore, no additional reimbursement is recommended.</p>

1-31-02 1-31-02	L0510 E0244	\$ 300.00 \$ 103.00	\$ 255.00 \$ 88.00	A, M M	DOP	MFG: Durable Medical Equipment (DME) Ground Rule (IX) (C); Rules 133.304 (i) & 133.307 (g) (3) (D); HCPCS Descriptor	<p>The Carrier initially denied the disputed services as not preauthorized for HCPCS Code L0510 date of service 1-31-02. However on reaudit the Carrier denied as "M".</p> <p>Pursuant to TWCC Rule 133.307 (g) (3) (D), the Requestor has submitted example EOBs reflecting that other carriers have reimbursed the amount billed.</p> <p>TWCC Rule 133.304 (i) states, "When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall: (1) develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances received similar reimbursement; (2) explain and document the method it used to calculate the rate of pay, and apply this method consistently; (3) reference its method in the claim file; and (4) explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement."</p> <p>The carrier has reimbursed the provider a total of \$343.00 of a \$403.00 charge for both HCPCS codes. However, the carrier has failed to support this reimbursement with documentation that discusses, demonstrates and/or justifies that the payment made represents fair and reasonable.</p> <p>The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. However, in this case, the Respondent has failed to support their denial. The requestor has provided EOBs from other carriers to support their position that the amount billed is fair and reasonable</p> <p>Therefore additional reimbursement is recommended in the amount of \$60.00. (\$403.00 billed for both items - \$343.00 already paid by the Carrier = \$60.00.)</p>
Totals		\$2,323.45	\$1,983.08				The Requestor is entitled to additional reimbursement in the amount of \$76.00 .

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$76.00** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 06th day of March 2003.

Lesia Lenart
Medical Dispute Resolution Officer
Medical Review Division

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